IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 1628 OF 2004

Samrat Ashok Yuvak Mandal
Solapur .... Petitioner

versus

The State of Maharashtra & ors..... Respondent.

Mr. A.M.Joshi for the petitioner
Mr. I.M.Khairdi for Respondent no.3.
Mr. S.K.Chinchalikar AGP for Respondents 1 and 2.

CORAM; A.P. DESHPANDE, J.
DATED; 7TH FEBRUARY, 2007

P.C.;

1. Respondent no.3 who is working as a peon in a school administered by the petitioner, had suffered a fracture to his leg sometime in February 2002 and hence proceeded on leave and thereafter sought extension thereof till June 2002. By claiming that the respondent was not permitted to resume the duties after availing of the leave, an appeal was filed before the tribunal to challenge the action on the part of the Head Mistress as amounting to otherwise termination. The tribunal allowed the appeal and directed reinstatement of the respondent with full backwages with continuity of service. It is this order passed by the tribunal which is questioned in the instant writ petition.

2. The tribunal quashed the termination and in regard to payment of backwages, issued further direction to the education officer to release 50% by way of salary grants whereas the balance 50% was to be shared in equal proportion by the management and the Head Mistress. The respondent came to be reinstated in compliance of the order passed by the tribunal and this petition only pertains to the claim of backwages.

3. The learned advocates appearing for the petitioner and the concerned employee have placed on record the Minutes of the Order on behalf of their respective clients, which is taken on record and marked as 'X' for identification, whereunder 50% of the backwages are to be released by the education officer as directed by the School Tribunal, whereas the claim against the Head Mistress which was to the extent of 25% is given up and the management has undertaken to pay the backwages to the extent of 25%. In otherwords baring giving up of the claim of recovery of 25% of backwages against the Head Mistress, the order passed by the tribunal is acceptable to the parties. The petition thus would be disposed of in the above terms and in view of paragraph 1 of the Minutes of the Order.

4. Paragraph 2 of the Minutes dealt with the claim of

the respondent no.3 for the period preceding the date of termination i.e. for a period commencing from 4-2-2001 to 9-6-2002. Truly speaking the said claim is beyond the scope of the writ petition. However, the learned counsel for the respondent no.3 points out that for the said period the respondent no.3 has not been paid the salary. I permit the respondent to move the education officer so also the school management and Head Mistress by giving appropriate representation and if such a representation is made the school management so also the Head Mistress and the education officer would take appropriate decision in accordance with the law within a period of three months from the date of receipt of the representation. The writ petition thus stands disposed of.

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